IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21244 of 1995

Between:

Borru Ramachandraiah, S/o Peda Venkaiah,

Poultry Farm, R/o. Ramakrishnanagar,

Buchireddypalem, Nellore District.

..... PETITIONER

AND

1. The Executive Officer, Buchireddypalem Gram

Panchayat, Buchireddypalem, Nellore District.

2. The Person-in-Charge, Buchireddypalem Gram

Panchayat, Buchireddypalem, Nellore District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other writ, order or direction, in the nature of a writ, declaring the order passed in ROC.19/95, dated 25-8-1995 by the first respondent directing the petitioner to remove the birds from Poultry Farm in Ramakrishnapuram, Buchireddypalem village, as arbitrary, illegal and without jurisdiction and set aside the same.

For the Petitioner: MR. G. PEDDA BABU, Advocate.

For the Respondent No.1: MR. P. SRIDHAR REDDY, Advocate.

For the Respondent No.2: None appeared

The Court made the following :

ORDER:

In this writ petition, the petitioner seeks to declare the order passed by the first respondent in Roc. No.19/95, dated 25-8-1995, as arbitrary and illegal, and consequently to set aside the same.

The petitioner states that he established a poultry farm at the outskirts of Buchireddypalem of Nellore District, after taking all precautionary methods to safe guard the public health, and has been maintaining the same since four years. It is his case that due to political reasons, the first respondent-Executive Officer of Buchireddypalem Gram Panchayat, without making any inspection by any Health Authorities, and without following the procedure as contemplated under Section 32 of the A.P. Gram Panchayat Act, and without giving any notice and opportunity of hearing to him, issued the impugned order directing him to remove the birds from the poultry farm within 30 days, on the ground of harmful emanations from the poultry farm. Aggrieved thereby, he preferred an appeal under Section 128(1) of the A.P. Panchayat Raj Act before the Person-in-Charge of the said Gram Panchayat, who is second respondent herein, and the same is pending. He states that the second respondent has neither suspended the impugned order of the first respondent pending disposal of the appeal nor did he pass any orders on the appeal, and on the other, the first respondent is pressing him to remove the birds from the poultry farm. Hence, the writ petition.

Heard the learned counsel on either side.

This Court while admitting the writ petition on 21-09-1995 granted interim suspension of the impugned order and the same is still continuing.

It is submitted by the learned counsel appearing for the second respondent and admitted to by the learned counsel for the petitioner that since the appeal filed by the petitioner is pending before the second respondent-Appellate Authority, the second respondent may be directed to dispose of the appeal, expeditiously.

In view of the above submissions of the learned counsel for the second respondent as well as the learned counsel for the petitioner, and considering the facts and circumstances of the case, this writ petition is disposed of in the following terms:

The second respondent-Person-in-Charge of Buchireddypalem Gram Panchayat, Nellore District is directed to dispose of the appeal filed by the petitioner herein against the order passed by the first respondent herein in Roc.No.19/95, dated 25-8-1995, in accordance with law, expeditiously. Till such disposal, the interim suspension granted by this Court in W.P.M.P. No.26101 of 1995, dated 21-09-1995 shall continue. No costs.

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N.V. RAMANA, J

Date: 30-09-2004

Svv

To

1. The Executive Officer, Buchireddypalem Gram Panchayat,
Buchireddypalem, Nellore District.

2. The Person-in-Charge, Buchireddypalem Gram Panchayat,
Buchireddypalem, Nellore District.

3. Two CD copies.